



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

RICK SNYDER  
GOVERNOR

BRIAN J. WHISTON  
STATE SUPERINTENDENT

May 5, 2017

Mr. Patrick Devlin, President  
Detroit Community Schools Board of Directors  
12675 Burt Road  
Detroit, Michigan 48823

Dear Mr. Devlin:

Your April 28, 2017 letter to State Superintendent Brian Whiston has been forwarded to me for reply. His Final Report and Decision in this matter, issued on April 14, 2017, is a final decision of the Michigan Department of Education in this matter. I understand that you disagree with that decision, but the next level of appeal lies in the court system.

Accordingly, Detroit Community Schools will receive a state aid deduction for the amount of the salary paid to Sharon McPhail from October 1, 2015 through the date of Superintendent Whiston's decision. The Department has received your request for an extended repayment period and will respond to that request shortly. The penalty is an ongoing penalty and will continue to accrue until such time as Detroit Community Schools complies with the law regarding administrator certification.

I have reviewed the revised job description you provided for "Chief Administrative Officer (CAO)." While it may not be considered for the period prior to Superintendent Whiston's decision, as that matter is final, it may be considered as to the ongoing penalty subsequent to that decision.

The job summary states that the CAO "provides policies that govern the administration of all schools." Also, it states that the CAO "is the liaison between the academic team and the Board to advise the Board of their progress in setting goals for schools, such as improving test scores." Further, the CAO "provides the administrative leadership to all school personnel in carrying out the goals and objectives of the District."

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In the Superintendent's decision, he explained that, if a person is employed as a superintendent, regardless of the actual job title, it is not necessary to show that that person's primary responsibility is administering instructional programs. (See pages 4-18 of the decision.) I apologize for any confusion that my April 24, 2017 letter to you may have caused by referring to "administering instructional programs" as that was not the basis for Superintendent Whiston's decision. It is clear from the job description you provided that Ms. McPhail is performing the duties inherent in the role of a person employed as a superintendent. Moreover, there is no documentation that any other employee reports to the board of directors or is accountable to the board for the overall direction and supervision of the district.

Accordingly, the state aid penalty arising out of the district's continued employment of Ms. McPhail without the required administrator certification will continue to be assessed against the district's state aid payments.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leah Breen".

Leah Breen

Director

Office of Professional Preparation Services

Cc: Brian Whiston, State Superintendent  
Phil Boone, Interim Director, Office of State Aid and School Finance  
Robert Dulin, Secretary, Detroit Community Schools Board of Directors

## **APPEAL PROCEDURES: STATE AID DEDUCTIONS UNDER MCL 388.1763**

### **INTRODUCTION**

If a state aid deduction is assessed against an LEA under MCL 388.1763, the Office of Professional Preparation Services (OPPS) Director shall notify the Local Education Agency (LEA) in writing. The notice shall inform the LEA that it can file a request for reconsideration in writing with the OPPS Director. With the notice, the OPPS Director shall provide the LEA with a copy of the appeal procedures.

If the LEA does not prevail on reconsideration or in a subsequent appeal to the State Superintendent, additional deductions will be applied if non-compliance continues during the pendency of the request for reconsideration and the appeal.

### **First Level Appeal: Request for Reconsideration filed with OPPS Director**

A request for reconsideration shall be received by the OPPS Director no more than 30 calendar days from the date of the notice of the finding.

A request for reconsideration shall indicate the legal and factual basis for the request. Upon receipt of a timely request for reconsideration, the OPPS Director may direct that further investigation be made and may request that the LEA submit additional information. The OPPS Director shall review the request for reconsideration and all available information and, within 15 calendar days of receipt of the request, shall send to the LEA a written decision, granting, granting in part and denying in part, or denying the request for reconsideration.

If the OPPS Director denies the request for reconsideration in whole or in part, the Director shall inform the LEA that it may appeal the decision to the State Superintendent and that the appeal shall be received by the State Superintendent no more than 30 calendar days from the date of the decision.

### **Second Level Appeal: Appeal to State Superintendent**

Upon the State Superintendent's receipt of a timely appeal of a decision on a request for reconsideration, a designee of the State Superintendent shall notify the LEA that its appeal may be submitted entirely in writing or that it may attend (in person or by telephone) a review conference convened by the designee.

The State Superintendent or designee may direct that further investigation be made and may request that the LEA submit additional information.

Based on all available information and based on arguments made at the review conference, if any, the State Superintendent shall issue a final written decision affirming, affirming in part and denying in part, or denying the appeal.

The final decision of the State Superintendent shall be sent to the LEA and shall be submitted to the Office of School Aid and School Finance of the Department of Education for implementation.

The decision of the State Superintendent is the final decision of the Department of Education. No further appeals or requests for reconsideration may be filed with the Department of Education.